

Wasatch Clean Air Coalition
STATEMENT OF THE ROCKY MOUNTAIN OFFICE OF
ENVIRONMENTAL DEFENSE

NOVEMBER 2, 2005

Concerns with Utah's Initiation of Rulemaking to Adopt the EPA's December 31, 2002 New Source Review Rule Revisions

Thank you, very much, for the opportunity to present my concerns. I respectfully request that this statement and the accompanying documents circulated to Board members and state air quality officials before this meeting be incorporated into the administrative record of this proceeding.

Unfortunately, there has been no adequate analysis by the U.S. Environmental Protection Agency to examine the air pollution impacts of the rule revisions before you today. The importance of such analysis has been punctuated by the General Accounting Office, EPA's own Inspector General and, most recently, the federal court of appeals that vacated two provisions of EPA's December 2002 rule and remanded a third. In fact, the federal court of appeals indicated in its June 24, 2005 decision that, due to its vacating two provisions of the EPA rule, "there is heightened need for EPA to have sufficient data to confirm that the remaining portions of the 2002 rule do not result in increased emissions that harm air quality and public health."

Section 110(l) of the federal Clean Air Act is manifest in directing that no revision to a state implementation plan may be approved unless it is shown that it will not interfere with any Clean Air Act requirement including compliance with ambient air quality standards or visibility protection. This is a common sense rule that calls on all of us to work together to ensure that new policy action is consonant with vital clean air protections and requirements.

To date, no analysis of emissions increases or ambient air impacts has been prepared by the state of Utah. I respectfully request that rigorous analysis be conducted before Utah adopts significant changes to a bedrock clean air program that has protected Utah citizens and its natural environment for a quarter century.

Utah's existing state permitting regulations at R307-401 will not ensure that air pollution does not increase under the rule revisions before the Board today because they do not include the same requirements as the federal program for sources in nonattainment areas and because they have exemptions that could allow source modifications which escape review under the December 2002 rule changes to also avoid review under Utah's permitting requirements.

The D.C. Circuit also remanded the December 2002 rules to EPA due to lack of adequate recordkeeping and reporting necessary for core enforceability of the program. EPA has not responded to that remand, and Utah has not proposed any additional recordkeeping or reporting requirements to address that remand. This is a critical issue related to the

integrity of the rules and I respectfully request that it be addressed before this rulemaking proceeding advances.

Utah faces real air quality challenges. Utah has elevated particulate and ozone levels. At the same time, EPA staff has recently recommended the EPA administrator significantly strengthen the health-based particulate pollution standard. EPA's administrator Stephen Johnson is required to act by December 20, 2005 to propose revisions to the nation's health-based standard for particulate pollution. This could have significant implications in Utah. Meanwhile, National Park Service air quality trends data shows ozone, sulfate concentrations, nitrate concentrations and ammonium concentrations are worsening in Canyonlands National Park, one of Utah's crown jewels.

I respectfully request that Utah delay action on the December 2002 NSR rule revisions until Utah assesses the air quality impacts of the suite of rule revisions before the Board, such as the new baseline exemption that allows sources to expand and increase their emissions to the highest pollution levels in the past ten years without undergoing any review. Indeed, we all know that rigorous air pollution rules for high-polluting, aging sources are essential not only to human health and the environment but to Utah's vibrant economic growth. Cleaning up our older sources will create precious room in the airshed for new, more efficient economic activity. Finally, Utah may squarely meet EPA's January 2006 submittal deadline by resubmitting its current permitting program to EPA as an equivalent or more stringent program in accordance with section 116 of the Clean Air Act. The existing clean air program has served Utahans well for many years. Such a course of action would allow ample opportunity to evaluate the federal court of appeals' June 24th decision, EPA's impending December 20th proposal on the particulate pollution health standard, and to fully evaluate whether new exemptions from clean air protections are an appropriate public policy choice for Utah.

Thank you, again, for your consideration of our views.

Sincerely,

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Environmental Defense is dedicated to protecting the environmental rights of all people, including the right to clean air, clean water, healthy food and flourishing ecosystems. Guided by science, we work to create practical solutions that win lasting political, economic and social support because they are nonpartisan, cost-effective and fair.